



New York State Comptroller  
**THOMAS P. DiNAPOLI**

# Oversight of School Safety Planning Requirements

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State Education Department

Report 2018-S-34 | April 2019

Spotlight on Education



# Audit Highlights

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## Objective

To determine whether the State Education Department (Department) is monitoring schools, districts, and other programs to ensure they are complying with legislation and regulations governing school safety planning. The audit covers the period September 1, 2016 through September 27, 2018.

## About the Program

Incidents like the February 2018 school shooting in Parkland, Florida highlight the need for schools to remain vigilant against threats to student and teacher safety. Since 2000, New York State schools have been required to develop and regularly review school safety plans as part of the Safe Schools Against Violence in Education (SAVE) Act. Among its key provisions, the SAVE Act created Section 2801-a of the Education Law (Law) requiring public school districts, charter schools, and Boards of Cooperative Educational Services (BOCES) programs (herein collectively referred to as School Districts) to develop district-wide safety plans (District Plans) and building-level emergency response plans (Building Plans). The Law outlines general requirements for the plans, but the specifics are left up to safety teams appointed at each district and school building. The safety teams are composed of stakeholders from the School Districts, including representatives from the school board and parent, teacher, and administrator organizations; school safety personnel; community members; and first responders. The Law also requires School Districts to review and adopt their plans and submit them to law enforcement agencies and to provide training on those plans to staff.

## Key Findings

- Overall, we determined the Department is not sufficiently monitoring School Districts' compliance with the requirements for school safety planning and, consequently, does not have assurance that the requirements are being met.
- We found that Department efforts primarily focused on ensuring that School Districts submitted their Building Plans to the State Police annually. Their efforts resulted in 99 percent of required plans being submitted to the State Police. However, the Department did not similarly track or monitor submission of Building Plans to local law enforcement. Consequently, there is no assurance that local law enforcement – a group more likely to be among the first responders to the scene of an emergency – is receiving the Building Plans as required.
- In addition, due to the Department's lack of oversight, School Districts did not consistently: annually adopt their safety plans in accordance with Department guidance, hold public hearings on the plans, appoint district-wide safety teams including all required representatives, or train employees on the plans.
- The Department has never submitted a report on the implementation of and compliance with the provisions of the Law to the Governor and the Legislature, although it has been

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required to do so annually since 2000. As a result, lawmakers do not have the information necessary to evaluate whether the Law is achieving its desired outcomes.

## **Key Recommendations**

- Develop a program to monitor School Districts' compliance with school safety planning requirements outlined in the Law, regulations, and Department guidance.
- Clarify Department expectations for compliance with requirements under the Law, regulations, and Department guidance including, but not limited to, expectations for public comment periods, public hearings, plan adoption, and training requirements.
- Prepare and submit the required annual reports to the Governor and the Legislature.



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## Office of the New York State Comptroller Division of State Government Accountability

April 8, 2019

Ms. MaryEllen Elia  
Commissioner  
State Education Department  
State Education Building  
89 Washington Avenue  
Albany, NY 12234

Dear Ms. Elia:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of School Safety Planning Requirements*. This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Division of State Government Accountability*

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# Glossary of Terms

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| Abbreviation     | Description  | Identifier        |
|------------------|--|-------------------|
| BOCES            | Boards of Cooperative Educational Services                                 | <i>Key Term</i>   |
| Building Plans   | building-level emergency response plans                                    | <i>Key Term</i>   |
| Department       | State Education Department   | <i>Auditee</i>    |
| District Plans   | comprehensive district-wide safety plans                                   | <i>Key Term</i>   |
| Law              | Education Law  | <i>Law</i>        |
| Regulations      | Regulations of the Commissioner of Education                               | <i>Key Term</i>   |
| SAVE             | Safe Schools Against Violence in Education Act                             | <i>Regulation</i> |
| School Districts | public school districts, charter schools, and BOCES programs, collectively | <i>Key Term</i>   |
| System           | Basic Educational Data System  | <i>Key Term</i>   |

# Background

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According to a March 2018 report issued by the National Center for Education Statistics entitled *Indicators of School Crime and Safety: 2017*, from 1995 to 2015, the percentage of students who reported being victimized at school dropped from 10 percent to 3 percent. However, mass casualty incidents like the February 2018 school shooting in Parkland, Florida highlight the need for schools to remain vigilant against threats to student and teacher safety. In New York, schools are required to develop and regularly review safety plans as part of the Safe Schools Against Violence in Education (SAVE) Act.

Enacted in July 2000, the SAVE Act aims to improve the learning environment in New York's schools by preventing school violence and increasing the safety of students and teachers in school settings. Among its key provisions, the SAVE Act requires school districts to establish a code of conduct, mandates training and instruction for preventing and responding to incidents of school violence, and establishes a uniform system for reporting violent incidents.

Further, the SAVE Act requires schools and districts to be prepared to respond to incidents when they occur. Specifically, part of the SAVE Act added Section 2801-a of the Education Law (Law) requiring public school districts, charter schools, and Boards of Cooperative Educational Services (BOCES) programs (herein collectively referred to as School Districts) to develop comprehensive district-wide safety plans (District Plans) and building-level emergency response plans (Building Plans). Section 155.17 of the Regulations of the Commissioner of Education (Regulations) was developed to provide additional guidance and details on school safety planning requirements. Notably, the school safety requirements outlined in the Law and Regulations apply to public schools and districts, but not to private schools operating in the State.

According to State Education Department (Department) data related to school safety plan submissions for the 2017–18 school year, there are 779 School Districts in the State (excluding New York City: 688 school districts, 54 charter schools, and 37 BOCES programs), each with unique characteristics. The Law and Regulations outline the general requirements for all plans, but specific aspects are left up to safety teams appointed at each district and school building. The safety teams are composed of stakeholders from the School Districts and include representatives from the school board and teacher, administrator, and parent organizations; school safety personnel; community members; and first responders.

In addition to requiring the development of plans and the appointment of safety teams, the Law, Regulations, and other Department guidance prescribe other actions that School Districts must take annually, including:

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- Reviewing and adopting the District and Building Plans;
  - Submitting District Plans to the Department;
  - Submitting Building Plans to the Division of State Police (State Police) and local law enforcement; and
  - Training school staff on the plans.

The Law also requires the Department to report annually to the Governor and the Legislature on the implementation of and compliance with the provisions of the Law.



# Audit Findings and Recommendations

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We determined that the Department is not sufficiently monitoring School Districts' compliance with the school safety planning requirements outlined in the Law and Regulations. The Department has directed its efforts primarily toward ensuring that School Districts submit their Building Plans annually to the State Police. It has also collected certain information relating to school safety planning requirements directly from the School Districts. However, the Department has not reviewed or verified what it has collected or monitored School Districts' compliance with other requirements in the Law, Regulations, or Department guidance.

Department officials state that they do not consider themselves safety experts. Instead, they coordinate with agencies like the State Police and the New York State Division of Homeland Security and Emergency Services when it comes to the technical aspects of school safety planning (i.e., the development of plan templates and the review of safety plans). During our audit scope, the Department assigned just one staff member with part-time responsibility to oversee school safety planning requirements. Although the Department did assign another staff member in spring 2018, both individuals have other responsibilities, and neither is able to focus solely on monitoring school safety planning.

Absent sufficient oversight, the Department does not have assurance that School Districts are meeting safety planning requirements. We recognize that School Districts have unique characteristics and need flexibility to address safety in ways that best meet their individual needs. Nonetheless, the Department should be working to ensure that School Districts are consistently meeting the basic requirements of the Law and Regulations within the designated time periods.

During our audit, Department officials applied for and were awarded a School Emergency Management Grant from the U.S. Department of Education in September 2018. The Department expects to use a portion of the grant funds to hire a full-time staff person to improve its oversight of emergency response planning requirements.

During our audit, we met with officials from the Department, State Police, local law enforcement, and 15 School Districts throughout the State (including 11 school districts, 2 BOCES programs, 1 charter school, and 1 private school; see Exhibit). We also tested compliance with selected provisions of the Law and Regulations at 14 of these 15 School Districts. We excluded the private school from our testing because the Law and Regulations do not apply to private schools. Our detailed audit findings and observations are explained in the sections that follow.

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## Building Plan Requirements

### Submissions to the State Police

School Districts are required to develop a Building Plan for each building and submit a copy to the State Police. Prior to the 2017–18 school year, neither the Department nor the State Police had a comprehensive way to track which School Districts submitted their Building Plans because they were being submitted in a variety of formats (e.g., hard copy, email). The Department has recently taken steps to assist with the reporting and collection of Building Plans, allowing School Districts to submit them via the Department’s business portal, where the State Police may access them. Standardized reporting allows the Department and the State Police to track which School Districts have submitted their Building Plans and to monitor the progress of School Districts that have not. For the 2017–18 school year, School Districts (outside of New York City) submitted 2,915 of 2,939 (99 percent) required Building Plans. For the 24 outstanding Building Plans, 19 were identified as “in progress” (7 of which actually were 100 percent complete, but had not yet been accepted by the State Police), and 5 were identified as being “0 percent complete.”

### Submissions to Local Law Enforcement

The Law and Regulations also require that School Districts submit a copy of each Building Plan to local law enforcement. Arguably, this requirement is among the most important provisions in the Law and Regulations, as local law enforcement would likely be among the first on the scene of an emergency, making their access to up-to-date Building Plans critical.

We found that School Districts submitted their Building Plans to local law enforcement in a variety of ways. For the 14 School Districts we tested, 4 submitted hard copies and 3 emailed their Building Plans to local law enforcement. Two other School Districts stated that they uploaded their Building Plans to a third-party website that houses emergency preparedness information. The remaining five School Districts did not submit their plans to local law enforcement, with officials at one School District stating that they believed uploading their Building Plan to the Department’s business portal meant local law enforcement could access it, therefore meeting the requirement. However, as of the 2017–18 school year, the Department still required School Districts to share their plans directly with local law enforcement. According to Department officials, submitting the Building Plans via the portal only satisfies the reporting requirement to the State Police.

Due to the lack of a standardized procedure for submitting Building Plans to

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local law enforcement, the Department does not have any assurance that this requirement is being met. Additionally, the Department is not aware of the variations in how School Districts are interpreting and attempting to comply with this requirement.

## **Department Notification When Building Plans Are Activated**

Department officials acknowledge the Regulations require School District officials to report when the activation of a Building Plan results in a school building closure. However, we found the Department has not established a process to track whether such occurrences are reported. As a result, the Department is not aware of how often these events occur. Further, it cannot track and analyze the causes of these events (i.e., whether they are due to violence or other factors).

Generally, School Districts must notify the BOCES district superintendent, who is then responsible for reporting the occurrence to the Department. The largest districts (Buffalo, Rochester, Syracuse, and Yonkers) are supposed to notify the Department directly. However, some School District officials we spoke with were unaware of the notification requirement and were unclear about who to notify. Department officials indicated that they are working to add a place on the Department portal for School Districts to directly report such events that occurred during the prior school year. While Department officials will be able to analyze this information and assess the causes of these events, the reporting is not contemporaneous as required by the Regulations. As of November 2018, this functionality had not been completed.

## **District Plan Requirements**

### **System Issues Resulting in Late Submissions**

School Districts are required to adopt their District Plans by September 1 of each year and submit them to the Department within 30 days of adoption. Instead of collecting the entire District Plan for every School District, the Department requires each district to post the plan on their district website and then submit the web address (URL) to the Department. School Districts must submit the URL via the Basic Educational Data System (System), which they already use to report a variety of other student, school, and district data.

We found that School Districts that adopted their District Plan by September 1 (as required) could not submit the URL to the Department within 30 days due to the reporting process implemented by the Department. Each year, the System is available for School Districts to report their data to the Department

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beginning on the first Wednesday in October. For the 2017–18 school year, School Districts could not access the System until October 4, 2017. As such, even if a School District adopted its District Plan on the last allowable day under the Regulations (September 1), it would still not be able to submit the URL within the 30-day time frame. School Districts that adopted plans earlier in the year missed the reporting window by an even wider margin. Department officials acknowledged the timing issue, but stated that the current process is the easiest way to collect the information, preferable to implementing another reporting tool or requirement.

## Insufficient Review of Submissions

As noted in the prior section, the Department requires School Districts to report the URL for their District Plan each year. We evaluated each of the URLs submitted to the Department and found 555 out of 779 (71 percent) did not link to District Plans. We found 406 URLs that linked to general district sites (and not to the actual plans) and 129 that were no longer operational. The remaining 20 URLs were insufficient for a variety of other reasons; for example, one linked to a page instructing the viewer to contact the superintendent's office for a copy of the plan, and another linked to a fictional website (<http://www.notontheinternet.com>), supplied to circumvent the System's URL field completeness requirements.

Department officials acknowledged they do not check the links because they are not safety experts and, therefore, do not feel qualified to evaluate the quality of the plans. However, this should not preclude the Department from at least ensuring that the URLs work and link to actual plans.

## Annual Plan Adoption Requirements

According to the Law and Regulations, School Districts must adopt their Building Plans and District Plan and ensure they are regularly reviewed and updated as necessary. Additional guidance from the Department states that these plans must be adopted annually, by September 1, and that School Districts must also offer a 30-day comment period and hold a public hearing on the District Plan each year prior to its adoption.

We tested compliance with these requirements at the 14 School Districts in our sample and determined:

- 12 School Districts did not have evidence of the required 30-day comment period for their District Plan;
- 9 School Districts did not hold a public hearing on their District Plan prior

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to its adoption; and

- 8 School Districts did not have evidence that they adopted their plans annually and, of the 6 School Districts that did adopt plans annually, 3 did not meet the September 1 adoption date.

We determined that School Districts' compliance was sometimes subject to their interpretation or understanding of the requirements. School District officials were not always certain about whether the Building Plans and District Plan needed to be adopted annually, just once upon their creation, or only when significant changes were made. We found the Law does not specifically reference annual adoption of the plans. However, guidance in the Department's *Quick Guide to Emergency Response Planning* does state that District Plans and the Building Plan are to be adopted annually. Each District Plan must also be made available for a 30-day comment period and at least one public hearing.

The Department has not monitored the School Districts' compliance, captured any information about, or required any reporting related to whether Building Plans and each District Plan are annually adopted and the necessary comment periods and hearings are held as expected. Absent stronger direction and oversight from the Department, there is a risk that School Districts will continue to misinterpret requirements related to District and Building Plan adoption.

## Other Instances of Non-Compliance With the Law and Regulations

### Training and Safety Team Makeup

The Law and Regulations outline certain actions School Districts must take to ensure their Building Plans and District Plan are reviewed by the required personnel and that employees are trained on the plans. For example, according to the Law and Regulations, School Districts must annually train all staff on the plan and appoint a district-wide safety team that includes a variety of stakeholders such as school board and parent, teacher, and administrator organization representatives and school safety personnel.

We tested the annual training requirement and makeup of school safety teams at the 14 School Districts in our sample and found only partial compliance. For example, we determined 10 of the 14 School Districts had not completed annual staff training. We also found 9 of the 14 School Districts did not include at least one of the required representatives on their safety team. In two instances, the safety team did not include school safety

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personnel. School board members were the required group most often not represented (missing from 6 of 9 safety teams), followed by parent and teacher groups, which were not represented on 5 of 9 safety teams.

The inconsistent compliance with these provisions of the Law and Regulations can be attributed to the Department's lack of monitoring and oversight. For example, while the Department does require School Districts to certify in the System that they provided the necessary annual training, it does not take any action to verify what is reported. In one case, School District officials we spoke with indicated they did not provide the training, despite having attested in the System that they did so.

We also found some School Districts were uncertain about the annual safety training requirement. At 7 of the 14 (50 percent) School Districts we visited, officials thought other required exercises performed throughout the year – such as fire drills and lock-down drills – fulfilled the Law and Regulations' safety training requirement. As a result, six of the seven incorrectly attested they had completed the required training. By contrast, other School Districts coordinated and presented detailed safety plan trainings to staff at the start of each school year. As stated elsewhere in our report, without stronger direction and oversight from the Department, there is a risk that School Districts will continue to misinterpret and consequently be out of compliance with aspects of the Law and Regulations.

## Annual Reports to Governor

The Department must report annually to the Governor and the Legislature on the implementation of and compliance with the provisions of the Law related to school safety planning. Although the Law and this requirement have been in place since 2000, the Department has never submitted such a report to the Governor or Legislature. This, in part, can be attributed to the Department failing to collect the information necessary to complete the report. Consequently, the Governor and the Legislature have not received the information needed to evaluate whether the Law is achieving its desired outcomes. Absent this information, neither the Governor nor the Legislature can assess whether modifications are needed, such as whether the Law and Regulations should be expanded to include private schools.

## Recommendations

1. Develop a program to monitor School Districts' compliance with school safety planning requirements outlined in the Law, Regulations, and Department guidance.

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2. Reconcile the timing differences between the District Plan reporting process implemented by the Department and the reporting time frames established in the Law and Regulations.
  3. Inform School Districts that they are required to report to the Department when the activation of a Building Plan results in a school building closure.
  4. Clarify Department expectations for compliance with requirements under the Law, Regulations, and Department guidance including, but not limited to, expectations for annual public comment periods, public hearings, plan adoptions, and training requirements.
  5. Prepare and submit the required annual reports to the Governor and the Legislature.



# Audit Scope, Objective, and Methodology

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We audited the Department's oversight of school safety planning requirements during the period September 1, 2016 through September 27, 2018. The objective of our audit was to determine whether the Department is monitoring School Districts' compliance with legislation and regulations governing school safety planning.

To accomplish our audit objective, we reviewed relevant New York State laws and regulations. We also assessed the Department's internal controls as they related to oversight of school safety planning. We interviewed Department personnel to obtain an understanding of school safety planning requirements and to determine any relevant data used to track or monitor compliance with those requirements. Additionally, we analyzed the available Department data related to Building Plan submissions by School Districts. We also reviewed and analyzed information related to school safety planning captured in the Department's System. We selected a judgmental sample of 15 School Districts (which are identified in the Exhibit at the end of this report) based on factors such as size, geographic location, type (school district [11], BOCES program [2], charter school [1], private school [1]) and whether or not they had submitted the required Building Plans. We met with officials at each School District and obtained and reviewed relevant documents to assess their compliance with the school safety planning requirements. We also met with representatives from two local law enforcement agencies who worked with two School Districts in our sample to understand their role in school safety planning.



# Statutory Requirements

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## Authority

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions we made based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

## Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this final report and have included them in their entirety at the end of the report. In their response, Department officials generally agreed with the audit recommendations and indicated the actions they will take to address them. However, Department officials disagreed with our finding that they don't have assurance that local law enforcement has access to School District Building Plans. Our response to this comment is included in the report's State Comptroller's Comment.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

# Exhibit

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| School Districts Contacted                  |
|---|
| Brentwood Union Free School District        |
| East Ramapo Central School District         |
| Eastchester Union Free School District      |
| Le Roy Central School District              |
| Mount Vernon City School District           |
| Pembroke Central School District            |
| Rochester City School District              |
| Rockville Centre Union Free School District |
| Shenendehowa Central School District        |
| South Kortright Central School              |
| Tioga Central School District               |
| Questar III BOCES                           |
| Southern Westchester BOCES                  |
| Albany Community Charter School             |
| Emma Willard School                         |

# Agency Comments

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THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY  
12234

DEPUTY COMMISSIONER  
Office of Performance Improvement and Management Services  
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February 1, 2019

Mr. Stephen Goss  
Audit Director  
Division of State Government Accountability  
Office of the State Comptroller  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Mr. Goss:

The following is the New York State Education Department's ("the Department") response to the draft audit report of the Office of the State Comptroller (OSC): Oversight of School Safety Planning Requirements Audit Report. There is no issue of greater importance to the Department than safety in our schools.

The Department has reviewed the audit findings and recommendations and will take additional actions to improve school safety. However, the Department must point out that as reflected in the responses below, certain actions noted in the audit report are outside the scope of the statutory obligations required of the Department and would require additional resources for the Department to provide oversight over schools in this regard.

Following the amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016) that took effect on July 1, 2016, and the corresponding changes to Commissioner's Regulation 155.17, the Department disseminated multiple memos and resource documents to schools about the changes.<sup>1</sup> In addition, State Police and Department staff conducted regional trainings statewide about the changes for BOCES, district and school staff. The State Police and Department staff continue to provide technical assistance on issues related to school safety, along with the Department's contracted technical assistance vendor, the Center for School Safety.

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<sup>1</sup> [http://p1232.nysed.gov/sss/documents/NewSafetyLegis\\_FieldMemoFINAL.pdf](http://p1232.nysed.gov/sss/documents/NewSafetyLegis_FieldMemoFINAL.pdf);  
[http://p1232.nysed.gov/sss/documents/Memo\\_UpdateSafetyLegRegAug2016FINAL.pdf](http://p1232.nysed.gov/sss/documents/Memo_UpdateSafetyLegRegAug2016FINAL.pdf);  
[http://p1232.nysed.gov/sss/documents/EmerResponsLegRegCh\\_QA\\_Rev\\_Aug29FINAL.pdf](http://p1232.nysed.gov/sss/documents/EmerResponsLegRegCh_QA_Rev_Aug29FINAL.pdf);  
<http://p1232.nysed.gov/sss/documents/MentalHealthResourcesforEducators.pdf>

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It is important to note that, beginning with the 2017-18 school year, the process for schools to submit building-level emergency response plans to the State Police was significantly improved through a joint project between the Department and State Police. The project resulted in 99% of schools submitting their building-level emergency response plans to the State Police last school year, due to the implementation of a secure portal for district plans to be electronically submitted to the Department. Building-level emergency response plans submitted electronically through the portal are then reviewed for completeness by State Police staff and loaded to the statewide application Operation Safeguard within the Integrated Justice Portal. According to the State Police, Operation Safeguard and the Integrated Justice Portal are available to every law enforcement agency statewide. Through this process, local law enforcement (estimated 500 law enforcement agencies statewide)<sup>2</sup> have immediate access to an electronic version of the building-level emergency response plans. The Department has no access to Operation Safeguard, the Integrated Justice Portal or local law enforcement and cannot verify receipt of the building-level plans. In addition, the Department instructed schools that they should continue to file their plans with local law enforcement as is required by Education Law §2801-a and Commissioner's Regulation §155.17.<sup>3,4</sup>

\* Comment 1

Additionally, in September 2018, the Department applied for and was awarded a five-year grant from the U.S. Department of Education to improve the capacity of the Department to provide guidance and technical assistance to schools and districts related to school safety planning.<sup>5</sup> In addition to adding capacity within the Department by adding a full-time additional staff person, the funds will be used to provide statewide training to assist districts in developing comprehensive building-level emergency response plans.

The Department's responses to the specific recommendations in the OSC report are noted below.

#### **Recommendation 1**

**Develop a program to monitor School Districts' compliance with the school safety planning requirements outlined in the Law, Regulations, and Department guidance.**

Response: The OSC audit report states that "due to the lack of a standardized procedure for submitting building plans to local law enforcement, the Department does not have any assurance that this requirement is being met." SED disagrees with this finding. SED has been advised by the State Police that local law enforcement have access to the building level plans via Operation Safeguard. Therefore, most, if not all local law enforcement agencies should have access to these plans. Moreover, the Department instructed schools that they should continue to file their plan with local law enforcement as required by

\* Comment 1

<sup>2</sup> As of 2008, there were 514 law enforcement agencies in New York State employing 66,472 sworn police officers (source: 2008 Census of State and Local Law Enforcement Agencies, by Brian A Reaves, US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, July 2011)

<sup>3</sup> <http://www.p12.nysed.gov/ssss/sae/schoolsafety/save/AutomatedBldgERPs.html>

<sup>4</sup> <http://www.p12.nysed.gov/ssss/documents/EmergencyResponsePlanMemo201819final.pdf>

<sup>5</sup> <https://www2.ed.gov/programs/schlemergmt-sea/2018awards.html>

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Education Law §2801-a and Commissioner's Regulation §155.17. The Department does not have the authority to require all local law enforcement agencies to abide by a standardized reporting process since the Department does not have jurisdiction over local law enforcement and they may have different reporting requirements.

In addition, as noted in the OSC report and above, the Department was recently awarded funds under the federal Grants to States for Emergency Management Grant Program. The Department plans on using these funds to hire additional staff that will be responsible for developing and distributing guidance and providing technical assistance to schools and districts related to statutory and regulatory school safety planning requirements and best practices.

#### **Recommendation 2**

**Reconcile the timing differences between the District Plan reporting process implemented by the Department and the reporting time frames established in the Law and Regulations.**

Response: The Department agrees with this recommendation and is considering alternatives for submitting district plans to reconcile the timing differences between collection and reporting timelines in law and regulation.

#### **Recommendation 3**

**Inform School Districts that they are required to report to the Department when the activation of a Building Plan results in a school building closure.**

Response: Section 155.17(f) of the Commissioner's regulations requires all superintendents to notify the Department as soon as possible when the activation of a building plan results in a school building closure through the district superintendent of their board of cooperative educational services (BOCES) who will notify the Department. The Big 5 districts (NYC, Rochester, Yonkers, Syracuse and Buffalo) must notify the Department directly when the activation of a building plan results in a school building closure. The Department will revise its guidance to school districts to remind them of this obligation.

#### **Recommendation 4**

**Clarify Department expectations for compliance with requirements under the Law, Regulations, and Department guidance including, but not limited to, expectations for annual public comment periods, public hearings, plan adoptions, and training requirements.**

Response: Monitoring school board execution of their statutory obligations is outside the scope of the Department; however, the Department will develop and distribute additional guidance to school districts regarding regulatory and statutory requirements and best

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practices regarding Board adoption of plans, annual public comment periods, public hearings, and training requirements.

**Recommendation 5**

**Prepare and submit the required annual reports to the Governor and the Legislature.**

Response: The Department will prepare and submit the annual report to the Governor and the Legislature related to implementation and compliance with Education Law §2801-a.

Yours truly,



Sharon Cates-Williams  
Deputy Commissioner

cc: Jeanne Day  
Kathleen DeCataldo  
Renee Rider  
Michele Shahan  
Shannon Tahoe

# State Comptroller's Comment

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1. We acknowledge that Building Plans are entered into the Integrated Justice Portal (Portal), but the Department cannot verify that law enforcement agencies have access to the Portal and the Building Plans. We found that, although the State Police make Building Plans available to local law enforcement through the Portal, this access is not always reliable for all local law enforcement agencies. During our audit, we met with officials from two local law enforcement agencies who were aware of the Portal and its uses, but neither were aware of the ability to access Building Plans. One official accessed the Portal while we were present, but could not access any Building Plans. Consequently, it is not clear who at a local law enforcement agency can actually access the plans or how many local law enforcement agencies cannot access the Building Plans for schools in their jurisdiction. Regardless of the reasons for the lack of access, we recognize that the Department has no jurisdiction over law enforcement agencies and cannot directly resolve the access issues. Therefore, until the Department has assurance that local law enforcement agencies have ready access to the Plans on the Portal, we support the Department's instructions to School District officials to continue to file their Building Plans directly with local law enforcement agencies.

# Contributors to Report

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